

EXHIBIT H

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re: METHYL TERTIARY BUTYL 00 MDL 1358 (SAS)
ETHER ("MTBE") PRODUCTS 00 CV 1898 (SAS)
LIABILITY LITIGATION
Telephone Conference

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New York, N.Y.
October 23, 2013
2:30 p.m.

Before:

HON. SHIRA A. SCHEINDLIN

District Judge

APPEARANCES

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1 completed some individuals. So I would suggest that we could
2 leave this open. We're not pressing it at this time until the
3 meet and confer.

4 THE COURT: All right. The next one in my notes is
5 Sunoco. There were two 30(b)(6) notices on October 11 and on
6 September 13th and Sunoco says anyway they're duplicative of
7 the July 9 notice and that Sunoco gave testimony October 16 and
8 17 in response to the July 9 notice. What more are you
9 seeking? People sit for two days and answer your questions. I
10 don't understand why there are second and third rounds of
11 30(b)(6) here.

12 MS. O'REILLY: Your Honor, let me, first of all, the
13 witness that they produced was a radiation person who testified
14 on gasoline supply issues and submitted multiple times that he
15 didn't know anything beyond the documents he'd actually read
16 and wasn't able to answer some questions. The September 13th
17 notice is the one I read you, your Honor, about when did you
18 first learn about MTBE.

19 THE COURT: Okay, all right.

20 MS. O'REILLY: It's a different notice. That is a
21 different subject matter.

22 THE COURT: Right.

23 MS. O'REILLY: On the October 11 notice when I took
24 this witnesses's deposition last week he admitted that he
25 didn't know how they manufactured reformate, which was then

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1 sent to Peerless and blended into finished gasoline, nor did he
2 know anything and had not read any documents on how the
3 gasoline is blended by Peerless. This is the first time when
4 we took that deposition that we learned how Puerto Rico Sun Oil
5 actually manufactured gasoline in Puerto Rico. So the
6 October 11 notice is very narrow to get into that manufacturing
7 process. That was not part of the prior notice. This witness
8 didn't know the answer.

9 THE COURT: Mr. Krainin, do you understand --

10 MR. KRAININ: Yes, your Honor. I'd be happy to
11 address this. We certainly believe that the issues overlap
12 substantially. There's a great deal of duplication in these
13 notices. The witnesses, just so your Honor understands, the
14 entity, the Sunoco entity that was involved in gasoline sales
15 in Puerto Rico, no longer exists. Puerto Rico Sun Oil Company
16 had ceased operations in 2001. So in essence the Sunoco
17 defendants through a 30(b)(6) notice are limited to what the
18 documents indicate. So we did have a witness who was an
19 environmental engineer involved in many activities, worked in
20 the Puerto Rico facility in Yabucoa for many years, knew a lot
21 about it, but in many respects any witnesses's knowledge we
22 might put up is limited. We've offered a declaration in lieu
23 of preparing yet another 30(b)(6) proponent to talk about the
24 same issues in the same way so that would be my recommendation
25 as to how to resolve this.

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1 THE COURT: I think there were subjects that
2 Ms. O'Reilly mentioned that the witness really had no knowledge
3 of. She is entitled to get responses on those, particularly
4 I've already commented on knowledge, when did a defendant have
5 knowledge and of what. But there was something else you said
6 Ms. O'Reilly, it's already slipped my mind. There was a topic
7 you said was new.

8 MS. O'REILLY: We asked about the actual manufacturing
9 of the gasoline at Yabucoa and at Peerless. That was not part
10 of this witnesses's knowledges. I tried to at least cover it
11 in the deposition. The witness admitted he did not know.

12 MR. KRAININ: Your Honor, if I may respond. I don't
13 believe that Sunoco could put up any witness to testify as to
14 what happened at Peerless. What Ms. O'Reilly is alluding to
15 and what the witness the last week testified to is that Sunoco
16 had its Yabucoa facility in Puerto Rico manufacture or refine
17 reformat and shipped that reformat product to Peerless, a
18 separate facility in Puerto Rico where Peerless stripped out
19 benzene and added components and transferred the product back
20 to Sunoco for sales to the Peerless facility as completed
21 gasoline. So the facility that completed the manufacture and
22 manufactured finished gasoline on behalf of Sunoco was
23 Peerless.

24 THE COURT: If Sunoco has no knowledge of what
25 happened during the Peerless process, so be it, but it would have

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1 knowledge of what it accomplished on its own before it went to
2 Peerless and then when it returned back from Peerless what
3 happened. So if this witness isn't able to answer those
4 questions or the notice/knowledge questions then I do think
5 these two topics are appropriate for further deposition.
6 Again, trying a declaration first as an idea but not as
7 attractive here as when I said they should try that with Sol,
8 because here I think they need to talk about a process that
9 went from this Yabucoa facility to Peerless and back. So I
10 think a deposition that's not repetitive.

11 Now, look, Ms. O'Reilly, obviously if you're going to
12 sit and ask the identical questions you already asked you're
13 wasting everybody's time, but why would you waste your own
14 time? I trust you don't intend to do that.

15 Next is the request that document requests 1 through 8
16 is beyond the scope of the CMO of September 30. The last time
17 I raised that with a different defendant they said, you said
18 probably, Ms. O'Reilly that was ripe for meet and confer. You
19 think that's true here, too?

20 MS. O'REILLY: Yes, your Honor.

21 THE COURT: So I won't have anything more to say about
22 document request 1 through 8 whether it's beyond the scope of
23 September 30 but if you don't resolve it you have to really get
24 quickly before the Court or the special master and I think
25 really the special plaster.

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